

ORIGINAL

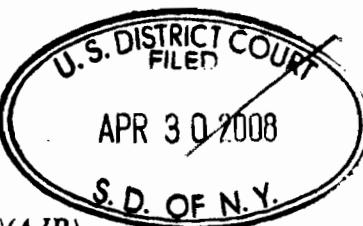
EDWARD D. FAGAN ESQ.

Five Penn Plaza, 23rd Floor, NY, NY 10001, Tel. (646) 378-2225Email: faganlawintl@aim.com (Official Email Address for Court Documents)Email : faganlaw.teachers@gmail.com (Email Address for Teachers4Action Case)

Via Fax (212) 805-6382 & Hand Delivery
 Honorable Victor Marrero USDI
 United States District Court
 Southern District of New York
 500 Pearl Street, Chambers 660
 New York, NY 10007

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: <u>5-5-08</u>

April 28, 2008

Re: Teachers4Action et al v. Bloomberg et al. 08-cv-548 (VM)(AJP)

Honorable Judge:

I am counsel for Plaintiffs in the above referenced matter.

In advance of the April 29, 2008 Conference, and with regard to the issues presented in the Order to Show Cause related to the Intercepted, Confidential and Privileged Emails, I am providing the Court with a courtesy advance copy of the April 28, 2008 Declaration of Tawana Adams.

This Declaration is based upon certain ex parte Statements made on April 28, 2008 by Defendant Department of Education ("DOE") representative Theresa Europe to one of the 3020-a Arbitrators (Dr. Andree McKissick). These statements are related to what Plaintiffs submit is ongoing concealment by Defendant DOE of the known or identifiable source of the Intercepted, Confidential and Privileged Emails and Defendant DOE's interference with Plaintiffs' ability to secure this evidence. Despite Plaintiffs' repeated requests, Defendant DOE has failed to produce, preserve and has failed to cooperate with Plaintiffs' efforts to secure the fax logs and other identifying information related to the Intercepted, Confidential and Privileged Emails.

The Court should note that Plaintiffs received no opposition to the relief requested in the Order to Show Cause. Therefore, Plaintiffs respectfully request that the relief sought should be granted.

The Court should also note that Plaintiffs have made good faith efforts to communicate with Defendants, as required by FRCP Rule 26, prior to tomorrow's Conference, and I will be prepared to address this and the proposed scheduling Order at tomorrow's Conference.

As always, thank you for the Court's consideration in this regard.

Respectfully submitted,

A handwritten signature in black ink that appears to read "Edward D. Fagan".

EDF/lkf

Attachment

Cc: Honorable Andrew J. Peck USMJ – Via Fax (212) 805-7933

Blanche Greenfield Esq. – For NYC Defendants - Via Fax # (212) 788-0327

Charles Noerdler Esq. – For Defendants UFT, Weingarten & Combier – Via Fax (212) 806-601

It is the Court's contemplation to consider at the 4-29-08 hearing only plaintiff's motion seeking the recusal of Magistrate Judge	
so ORDERED: Andrew Peck.	
4-28-08	DATE
VICTOR MARRERO, U.S.D.J.	

MICROFILMED

APR 30 2008 -3 PM